

**BOARD BILL NO. 244            INTRODUCED BY ALDERMAN GREGORY CARTER**

An ordinance pertaining to noise regulation; providing for a comprehensive noise control procedure to be implemented and enforced by the Health Commissioner; creating a Board of Noise Control Appeals; providing for a procedure by which the Board of Appeals may grant variances to the provisions of this ordinance and to hear appeals from rulings of the Health Commissioner; containing definitions, exceptions, a penalty clause and an emergency clause.

**BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

**SECTION ONE.** Ordinance 64566 (codified as Chapter 15.50 of the Revised Code of the City of St. Louis) is hereby repealed.

**SECTION TWO.** For purposes of this ordinance the following words and phrases are herein defined:

(1) A-weighted sound pressure level: A weighted sound pressure level as measured with the A-weighting network of a sound level meter. The unit of measurement is dB(A).

(2) Ambient noise level: The A-weighted sound pressure level of all the encompassing noise associated with a given environment, being usually a composite of sounds from many sources.

(3) A.N.S.I: The American National Standards Institute or its successor bodies.

(4) Board: The Appeal Board established by Section Eight of this ordinance.

(5) Boundary: The line of demarcation which separates the real property owned by one person from that owned by another person.

(6) Construction activity: Any or all activity necessary or incidental to the erection, demolition, assembling, repairing, altering, installing or equipping of public or private buildings, private or public parks, premises, utility lines, and

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1 private or public highways, roads or streets, including land clearing, grading,  
2 excavating and filling.

3 (7) Construction device: Any device used in construction including, but not  
4 limited to, any air compressor, pile driver, manual tool, bulldozer, pneumatic  
5 hammer, steam shovel, derrick, crane, steam or electric hoist.

6 (8) Daytime hours: 7:00 o'clock a.m. to 10:00 o'clock p.m., prevailing local  
7 time.

8 (9) Director: The Director of the Department of Health and Hospitals or his  
9 duly authorized agents.

10 (10) Discrete tone: A noise measured on a one-third octave band analyzer  
11 which is ten (10) decibels greater than each of the adjacent one-third octave  
12 bands.

13 (11) Emergency work: Work necessary to restore property to a safe condition  
14 following a public calamity, or work required to protect person or property  
15 from an imminent exposure to danger.

16 (12) Emergency signal device: Any gong, siren, whistle or any air horn or  
17 similar device when used on any vehicle designated as an emergency vehicle  
18 by ordinance or by Missouri statute, or used in connection with an emergency  
19 warning system, or used in connection with a warning system intended to  
20 produce a sound signal upon unauthorized entrance by a person into a building  
21 or motor vehicle.

22 (13) Impulsive noise: A noise, containing excursions usually of no more than  
23 one second, the A-weighted sound pressure level of which exceeds the ambient  
24 noise level by more than twenty (20) dB(A), when measured by the fast meter

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1 characteristic of a sound level meter.

2 (14) Motor vehicle: Any self-propelled vehicle not operated exclusively on rails.

3 (15) Nighttime hours: 10:00 o'clock p.m., to 7:00 o'clock a.m., prevailing local  
4 time.

5 (16) Perception threshold: The minimum vibrational motion necessary to cause  
6 awareness of the existence of the vibration by direct means, including but not  
7 limited to, sensation by touch or visual observations. Any vibration which  
8 produces more than five-tenths (0.5) inch/second root mean square vertical  
9 velocity shall be deemed sufficient to cause the awareness of the existence of  
10 the vibration by direct means.

11 (17) Period of measurement: Any continuous sixty-minute period during which  
12 observations of stationary noise sources are made and measurements of noise  
13 levels are taken.

14 (18) Person: Any human being, firm, association, organization, partnership,  
15 business, trust, corporation, company, contractor, supplier, installer, user,  
16 owner, or operator and shall include any municipal corporation or its officers or  
17 employees.

18 (19) Sound: An audible oscillation of pressure in air.

19 (20) Sound level meter: Any instrument including a microphone, an amplifier,  
20 an output meter, and frequency weighting networks for the measurement of  
21 sound pressure levels in a specified manner which complies with Type 2 or  
22 better standards established in the A.N.S.I. S1.4-1971 "Specification for Sound  
23 Level Meters."

24 (21) Sound pressure level: Twenty times the logarithm to the base 10 of the

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1 ratio of the root mean square pressure of a sound to the standard reference

2  
3 pressure which is twenty (20) micropascals. The unit of measurement is the  
4 decibel (dB).

5 (22) Stationary noise source: Any equipment, motor vehicle, aircraft, or facility,  
6 fixed or movable, capable of emitting audible sound.

7 (23) Vehicular way: A paved or unpaved area used by motor vehicles including,  
8 but not limited to roads, streets, highways, alleys and parking lots.

9 **SECTION THREE. APPLICABILITY OF STANDARDS ESTABLISHED BY**  
10 **A.N.S.I.**

11 Unless otherwise specified herein, or specified in regulations  
12 promulgated by the Director under this Code, the acoustical terminology, the  
13 reference pressure, instrument specifications, and calibrations and methods for  
14 measurements of sound pressure levels shall be in conformance with the  
15 definitions and provisions contained in the documents designated as A.N.S.I.  
16 S1.1-971, S.4-1971, S1.11-1966 (R1971 and S1.13-1971, of which one copy of  
17 each document is filed in the office of the Register of the City of St. Louis.

18 **SECTION FOUR. Permissible Noise Levels - Standards.**

19 1. No person shall operate or permit to be operated any stationary noise source  
20 which emits noise in such a manner that the level of the noise emitted, when  
21 measured at any point outside the boundary of the property upon which the  
22 stationary noise source is located using the slow meter characteristic and the A-  
23 weighting network of the sound level meter, exceeds the levels set forth in  
24 Table I below or exceeds the limit set forth in this ordinance. When the noise

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1 emitted is measured upon property which is located in a different land use  
2 category than the property upon which the stationary noise source is located,  
3 the levels applicable to the property where the noise emitted is measured shall  
4 be used to determine if a violation exists. If more than one use exists on the  
5 property where the noise emitted is measured such that more than one land use  
6 category would be applicable to the property, then the levels set forth in the  
7 least restrictive applicable land use category of Table I shall be used to  
8 determine if a violation exists.

9 2. If the stationary noise source emits noise containing a discrete tone, the  
10 permissible levels shall be 5dB lower than the applicable levels of Table I.

11 3. If the stationary noise source emits impulsive noise the levels of Table I shall  
12 be lowered by 5dB. A violation of this Code shall exist if the level of the  
13 impulsive noise emitted exceeds the applicable levels of Table I, as modified  
14 by this subsection, when the measurement is made using the fast meter  
15 characteristic and the A-weighting network of the sound level meter or if the  
16 level of the impulsive noise emitted exceeds the limit set forth in Section  
17 625.0550.6.

18 4. In the event the stationary noise source emits impulsive noise containing a  
19 discrete tone, the modifications of Table I set forth in subsections 2. and 3.  
20 herein shall be cumulative.

21 5. If the ambient noise level exceeds the level of the noise emitted from the  
22 stationary noise source for one or more periods of time during the period of  
23 measurement, then for any such period of time the level of the noise emitted  
24 from the stationary noise source shall be deemed to be lower than the level

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which is permitted for sixty (60) minutes during the period of measurement in the applicable land use category and for the applicable time of day.

6. If, during the period of measurement, noise shall be emitted from a stationary noise source for periods of time at two (2) or more different levels, a violation of this Code shall exist if the sum of the following fractions  $C1/T1 + C2/T2 + ...Cn/Tn$  exceeds the unit number 1. For purposes of this calculation  $Cn$  shall equal the actual time period that noise is emitted at each measured noise level and  $Tn$  shall equal the period of time that noise is permitted under Table I to be emitted at each measured noise level. Provided, however, if: (1) the ambient noise level exceeds the level of noise emitted from the stationary noise source for one or more periods of time during the period of measurement; or, (2) the level of the noise emitted from the stationary noise source is lower than the level of noise which is permitted in Table I for sixty (60) minutes during the period of measurement in the applicable land use category and for the applicable time of day for one or more periods of time during the period of measurement, then for the purpose of the calculation set forth in this subsection, for each such period of time, the term  $Cn$  shall be deemed to be zero (0) and the fraction  $Cn/Tn$  shall be zero(0).

#### Table I

##### A. Zoning Districts Zoned A-E

##### Daytime Hours

$Tn^*$  (dB(A))\*\*

60 55 or less

30 56-58

15 59-61

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8 62-64  
4 65-67  
2 68-70  
0 71 or greater

1

2

3

4

Nighttime Hours

60 50 or less  
30 51-53  
15 54-56  
8 57-59  
4 60-62  
2 63-65  
0 66 or greater

5

6

\*Total Duration of Time Noise To Be Emitted From Noise Source During

7

Period of Measurement (Minutes).

8

\*\* A-Weighted Sound Pressure Level.

9

B. Zoning Districts Zoned F+G

10

Daytime Hours

Tn (dB(A))\*\*  
60 65 or less  
30 66-68  
15 69-71  
8 72-74  
4 75-77  
2 78-80  
0 81 or greater

11

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1 Nighttime Hours

60 60 or less

30 61-63

15 64-66

8 67-69

4 70-72

2 73-75

0 76 or greater

2  
3 \*Total Duration of Time Noise To Be Emitted From Noise Source During  
4 Period of Measurement (Minutes).

5 \*\* A-Weighted Sound Pressure Level.

6 C. Zoning Districts Zoned H-I

7 All Hours

8 ]

60 70 or less

30 71-73

15 74-76

8 77-79

4 80-82

2 83-85

0 86 or greater

9  
10 \*Total Duration of Time Noise To Be Emitted From Noise Source During  
11 Period of Measurement (Minutes).

12 \*\* A-Weighted Sound Pressure Level.

13 D. Zoning Districts Zoned J-K

14 All Hours

15 ]

16 60 80 or less

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30 81-83  
15 84-86  
8 87-89  
4 90-92  
2 93-95  
0 96 or greater

\*Total Duration of Time Noise To Be Emitted From Noise Source During  
Period of Measurement (Minutes).

\*\* A-Weighted Sound Pressure Level.

**SECTION FIVE.** Exceptions. -To the extent provided in this section the  
provisions of this ordinance shall not apply to:

(1) The operation of construction devices, with sound control devices  
equivalent to or better than the original equipment, used in construction  
activities during daytime hours.

(2) The repair, maintenance or construction of public facilities of the state of  
Missouri or the City of St. Louis, or such public or quasi-public municipal  
corporations as may be established under the constitution or laws of the State of  
Missouri.

(3) Emergency work to repair or maintain private utility facilities.

(4) Emergency work to repair equipment or facilities damaged or rendered  
inoperable as a direct result of unavoidable upset conditions providing such  
occurrence is reports to the Director within twenty-four (24) hours after the  
occurrence.

(5) The operation of motor vehicles on a vehicular way with such control  
devices equivalent to or better than the original equipment.

1 (6) The operation of railway equipment and vehicles operated exclusively on  
2 rails.

3 (7) The necessary operation of emergency signal devices.

4 (8) Electric power distribution transformers within a distance of fifty (50) feet  
5 from the base of the support pole or from the fence line. In addition, electric  
6 power distribution transformers shall not be subject to the provisions of Section  
7 One (2).

8  
9  
10 (9) The operation of lawn care maintenance equipment with sound control  
11 devices equivalent to or better than original equipment form 7:00 a.m.,  
12 prevailing local time to sunset.

13 (10) All single and multi-family residential air-conditioning units, HVAC systems,  
14 cooling towers and/or heating systems. In addition, nothing in this provision shall  
15 be construed to preclude the City, or any other person, in seeking relief for a  
16 nuisance violation under any other provision of law for such systems.

17 (11) The enforcement of the provisions of Chapter 15.50 and Chapter 17.78 of  
18 the Revised Code of the City of St. Louis.

19 **SECTION SIX.** Notice of Violation. - Whenever the Health Commissioner  
20 determines that a violation of any provision of this Code exists, he shall issue a  
21 written notification to the person responsible for the alleged violation. The  
22 notification shall set forth the nature of the violation and shall direct that the  
23 violation must be abated within the time period specified by the Health

24 Commissioner, which time period shall not exceed sixty (60) days from the

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1 date the notice is sent; provided, however, if the violation cannot be abated  
2 within the time period specified, the Health Commissioner may extend the time  
3 period for compliance for a reasonable period of time upon submission of an  
4 acceptable abatement plan by the person responsible for the violation. In  
5 determining whether the abatement plan is acceptable, the Health  
6 Commissioner's consideration shall include, but shall not be limited to:

7 a. the sufficiency of all construction plans to reduce noise or vibrations levels;  
8 and

9 b. the sufficiency of the design criteria for any equipment changes to reduce  
10 noise vibration levels; and

11 c. the length of time necessary to perform all work to abate the violation.

12 **SECTION SEVEN.** Any violation which is not abated within the time period  
13 specified by the Health Commissioner, including any extensions, shall be  
14 referred to the City Counselor for prosecution, unless such violation has been  
15 appealed to the Board of Noise Control Appeals and Variance Review as  
16 provided in Section Seven. Each day that a non-abated violation continues after  
17 the date it has been referred to the City Counselor shall constitute a separate  
18 violation of this ordinance.

19 **SECTION EIGHT.** A. The Mayor shall appoint a Board of Noise Control  
20 Appeals and Variance Review consisting of three members. One member shall  
21 be an attorney licensed in the State of Missouri and one shall be a professional  
22 engineer registered in the State of Missouri. The members shall be residents of  
23 the City. The members shall be appointed for terms of four years and shall be  
24 compensated as prescribed by the Civil Service Commission. To the maximum

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1 extent possible, the members should not have a substantial interest in any  
2 business either subject to regulation by this ordinance or engage in the  
3 manufacture, sale or distribution of air pollution control devices.

4 B. The Mayor shall designate one of the members of the Board to serve as  
5 Chairman. The Health Commissioner shall serve as Secretary of the Board, but  
6 shall have no vote on the Board.

7 C. The Board shall advise the Health Commissioner on standards, rules and  
8 regulations and such other matters as are submitted to it by him.

9 D. The Board shall conduct hearings on appeals from actions and orders of the  
10 Health Commissioner. Notice of appeal from an order or decision of the  
11 Commissioner shall be filed within 10 days from the date of said order or  
12 decision. Fifty Dollars (\$50.00) shall accompany the notice of appeal which  
13 shall be paid to the Secretary of the Board for deposit with the Treasurer of the  
14 City.

15 E. 1. The Board member shall have authority to administer oaths and do all  
16 other necessary and proper duties in the conducting of a hearing.

17 2. At a Board hearing the parties involved and the Commissioner may appear  
18 with counsel, may file written arguments and may make oral arguments, offer  
19 testimony or cross examine witnesses, or take any combinations of such actions.

20 The Board shall have authority to make such rules and regulations as are  
21 necessary to perform its functions and duties under this chapter. A copy of such  
22 rules and regulations shall be available to the general public.

23 3. All testimony taken before the Board shall be under oath and recorded  
24 steno graphically, except that the Board may require the submission of

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1 voluminous or detailed or technical testimony in writing under oath. The  
2 transcript of records shall be made available to any member of the public or to  
3 any party upon payment of the fair charges therefore.

4 4. Upon the request of any parties, or on the motion of any member of the  
5 Board, the Board shall issue subpoenas requiring the attendance and testimony  
6 of witnesses and the production of books and records relevant to any matter  
7 involved. Every subpoena shall be served by the City Marshal and shall be  
8 obeyed.

9 F. 1. The Board may affirm, modify, or rescind any action of the Commissioner,  
10 if it finds that there is error in an order or decision of the Commissioner. The  
11 concurrence of any two members who were present at the hearing or who have  
12 read the transcript of the hearing shall be necessary for such decision regarding  
13 the order or decision of the Commissioner.

14 2. The Board shall notify all parties of record and their counsel in writing by  
15 United States mail of its decision. The Commissioner may issue appropriate  
16 orders requiring compliance with the decision of the Board. Any decision of the  
17 Board rendered pursuant to this section shall be final and any appeal therefrom  
18 shall be made pursuant to the Administrative Procedures Act as set out in  
19 Chapter 536 RSMo..

20 **SECTION NINE.** Variances.

21 A. Any person who owns or is in control of any plant, building, structure,  
22 process or equipment may submit a petition to the Health Commissioner for a  
23 variance from the provisions of this ordinance pertaining to sound levels . The  
24 petition shall be accompanied by a fee of \$50.00 and shall include the

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1 following information:

2 1. The name, address and telephone number of the petitioner, or other person  
3 authorized to receive service of notices;

4 2. The type of business or activity involved in the application and the street  
5 address at which it is conducted;

6 3. A brief description of the article, machine, equipment or other contrivance or  
7 process involved in the sound level emissions occurring therefrom;

8 4. Each petition shall be signed by the petitioner or by some person on his  
9 behalf, and where the person signing is not the petitioner it shall set forth his  
10 authority to sign;

11 5. The section, rule or order complained of;

12 6. The facts showing why compliance with the section, rule or order is  
13 unreasonable;

14 7. For what period of time the variance is sought and why;

15 8. The damage or harm resulting or which would result to petitioner from  
16 compliance with such section, rule or order;

17 9. The requirements which petitioner can meet and the date when petitioner can  
18 comply with such requirements including the sound levels which will result;

19 10. The advantages and disadvantages to the residents of the area resulting  
20 from requiring compliance or resulting from granting a variance;

21 11. Whether operations under such variance, if granted, would constitute a  
22 nuisance;

23 12. Such other information and data required by rule or regulation of the Board  
24 enacted in conformity with the terms, conditions, and limitations of this chapter.

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1 The Health Commissioner or his authorized representative shall promptly  
2 investigate such petition and submit it with a recommendation to the Board as  
3 to the disposition thereof.

4 B. The Board may grant such variance if it finds that:

5 1. The granting of such variance would constitute an immediate hazard to  
6 public health or safety; and

7 2. Compliance with the terms, conditions, and limitations of this ordinance  
8 from which variance is sought would result in an arbitrary and unreasonable  
9 taking of property or in the practical closing and eliminating of any lawful  
10 business, occupation or activity, in either case without sufficient corresponding  
11 benefit or advantage to the people.

12 C. No variance shall be granted pursuant to this section except after public  
13 hearing on due notice and until the Health Commissioner has considered the  
14 relative interests of the applicant, other owners of property likely to be affected  
15 by the proposed sound levels and the general public.

16 D. Variances may be granted for such period of time and under such terms and  
17 conditions as shall be specified by the Board. Variances may be renewed by the  
18 Board upon application made at least sixty (60) days prior to the expiration of  
19 the term. Renewal application shall be considered in the same manner as the  
20 initial petition for variance was considered by the Board.

21 E. A variance or renewal thereof shall not be a vested right of the applicant or  
22 holder thereof.

23 F. Such a variance may require gradual decrease of the sound levels during the  
24 variance period and the making of periodic reports of the improvement

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1 program and on compliance with the terms and conditions attached to the  
2 variance, and such a variance may be revoked or modified for failure to comply  
3 with the terms and conditions attached thereto or with any improvement  
4 program or for failure to make a periodic report, if such is required.

5 G. Nothing in this section and no variance or renewal granted pursuant hereto  
6 shall be construed to prevent or limit the application of the emergency  
7 provisions and procedures of this ordinance.

8 **SECTION TEN.** Penalty Clause.

9 (1) Any person found guilty or who enters a plea of guilty to a violation of any  
10 of the provisions of this ordinance shall be subject to a fine of not less than One  
11 Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or  
12 by imprisonment for not more than Ninety (90) days or both such fine and  
13 imprisonment. Each day upon which any violation of this ordinance occurs  
14 shall constitute a separate offense.

15 (2) The City Counselor is authorized to seek equitable relief in the Circuit  
16 Court to require any person in violation of the provisions of this ordinance to  
17 comply with the standards set forth herein.

18 **SECTION ELEVEN.** Emergency Clause.

19 This being an ordinance for the preservation of public peace, health, and safety, it is  
20 hereby declared to be an emergency measure within the meaning of  
21 Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore shall  
22 become effective immediately upon its passage and approval by the mayor.